

REMARKS

Claim 18 was rejected under Section 102 based on the '072 reference and also under that reference taken alone under Section 103.

With respect to the single reference Section 102 rejection, the rejection is admittedly inadequate as conceded in the Section 103 rejection wherein it is argued that the differences between the '072 patent and the present claims would be obvious. Therefore, as a matter of law, the 102 rejection is inadequate.

Moreover, teaching a range of less than 3 does not teach the more specific range of less than 2. Likewise, teaching a range of 20% or greater does not teach porosity of about 50%. Therefore, the rejections of claim 18 and 19, under Section 102, are subject to reconsideration.

The single reference Section 103 rejection of claim 18 is similarly deficient as a matter of law. In order to make out a Section 103 rejection, the prior art must teach the claimed limitation and a rationale to modify the reference to reach the claimed limitation. Plainly, the reference itself, which does not teach the claimed porosity or the claimed dielectric constant range, cannot teach modifying itself.

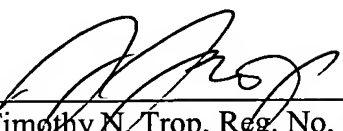
The assertions of obviousness set forth on the top of page 4 certainly are not statutory since the reference does not teach what it never described. To suggest that it is obvious to do what is claimed when the reference itself did not recognize it is the epitome of hindsight reasoning. Therefore, as a matter of law, a *prima facie* rejection is not made out since there is no rationale from within the reference to modify itself.

The assertion of what one skilled in the art would or would not do is inadequate to make out an obviousness rejection, as expressly stated in the Manual of Patent Examining Procedure at M.P.E.P. § 2143.01 under the heading "Fact That The Claimed Invention Is Within The Capabilities Of One Of Ordinary Skill In The Art Is Not Sufficient By Itself To Establish *Prima Facie* Obviousness."

Therefore, reconsideration is respectfully requested.

Respectfully submitted,

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